

# Exhibit 34



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# Transcript of Christopher Ambrose

**Date:** December 19, 2022

**Case:** XR Communications, LLC -v- Amazon.com, Inc., et al.

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF TEXAS

3 WACO DIVISION

4 XR COMMUNICATIONS, LLC, dba )  
5 VIVATO TECHNOLOGIES, )  
6 Plaintiff, ) Civil Action No.  
7 vs. ) 6:21-cv-00620-ADA  
8 APPLE, INC., )  
9 Amazon.COM, INC., Amazon.COM ) Civil Action No.  
10 SERVICES LLC, and EERO LLC, ) 6:21-cv-00619-ADA  
11 CISCO SYSTEMS, INC., MERAKI )  
12 LLC, ) 6:21-cv-00623-ADA  
13 MICROSOFT CORPORATION, ) Civil Action No.  
14 SAMSUNG ELECTRONICS CO., LTD, ) 6:21-cv-00695-ADA  
15 et al., ) Civil Action No.  
16 Defendants. ) 6:21-cv-00626-ADA  
17

18 VIDEOTAPED DEPOSITION OF CHRISTOPHER AMBROSE

19 commencing at 9:48 a.m. on Monday, December 19, 2022,  
20 at 425 SW Bluff Drive, Bend, Oregon 97703, before  
21 GENIE L. KELLEY, R.P.R., C.M., C.S.R. #90-0149.  
22  
23  
24  
25

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1 APPEARANCES OF COUNSEL

2 For Plaintiff:

3 MINNA CHAN, ESQ.  
4 Russ August & Kabat  
12424 Wilshire Boulevard  
12th Floor  
5 Los Angeles, California 90025

6 For Defendants Cisco Systems, Meraki LLC and  
7 Microsoft Corporation:

8 PETER M. KOHLHEPP, ESQ.  
Carlson Caspers  
225 S. Sixth Street  
9 Suite 4200  
10 Minneapolis, Minnesota 55402

11 (The following counsel appearing via Zoom)

12 For Defendant Asustek:

13 JOHN W. DOWNING, ESQ.  
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14 Suite 200  
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16 For Defendant Apple:

17 JENNIFER M. HARTJES, ESQ.  
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19 Chicago, Illinois 60606

20 For Amazon.com, Inc., Amazon.com Services and EERO,  
21 LLC:

22 ROY CHAMCHARAS, ESQ.  
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23 Suite 1600  
24 Portland, Oregon 97204  
25

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1 For Samsung Defendants:

2 KATHLEEN M. McCARTE, ESQ.  
3 Arnold and Porter  
4 700 Louisiana Street  
Suite 400  
Houston, Texas 77002

5 For Defendants Cisco and Meraki LLC:

6 DAKOTA KANETZKY, ESQ.  
7 Perkins Coie  
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Suite 1700  
8 Austin, Texas 78701

9 Also Present:

10 Steven Sheldon - Videographer  
11 Lucien Newell - Technician (Zoom)  
12  
13  
14  
15  
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1	MR. NEWELL: Showing exhibit --	12:51:39
2	MR. KOHLHEPP: I said Tab 13.	12:51:39
3	MR. NEWELL: Oh, 13.	12:51:42
4	MR. KOHLHEPP: It's marked Tab 13, Ambrose	12:51:44
5	Exhibit 15, please.	12:51:46
6	(Exhibit No. 15 marked for identification.)	12:51:48
7	MR. NEWELL: Okay. Stand by. Showing Exhibit	12:51:48
8	15 on the screen.	12:51:52
9	MS. CHAN: Do you have the Bates number by any	12:51:55
10	chance, Counsel?	12:51:57
11	MR. KOHLHEPP: This was one that -- and I'll	12:51:58
12	put on the record, this was one that Mr. Ambrose	12:52:00
13	produced, and the PDF number for this file was 896125.	12:52:01
14	MS. CHAN: Give me a moment just to review it.	12:52:14
15	MR. KOHLHEPP: Sure.	12:52:16
16	MS. CHAN: Okay. Go ahead.	12:52:25
17	Q. (BY MR. KOHLHEPP) Mr. Ambrose, do you	12:52:26
18	recognize this document?	12:52:30
19	A. I don't believe that's my printing. I'm	12:52:31
20	looking right now at an AmeriTitle tab. I do recognize	12:52:45
21	the letter dated April 23 of 2008.	12:52:54
22	MS. CHAN: I'm going to just lodge an	12:53:01
23	objection here to the extent this document reveals any	12:53:03
24	attorney-client privileged information or attorney work	12:53:07
25	product. For example, in the billing entries starting	12:53:11

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1 on Pages 51 onward of this PDF, our client has not 12:53:15  
2 waived any of its attorney-client privilege or work 12:53:20  
3 product, and our client is the successor in interest to 12:53:24  
4 the Vivato patents and assets. 12:53:33

5 Q. (BY MR. KOHLHEPP) Mr. Ambrose, I would ask 12:53:38  
6 you just to briefly page through this document, and my 12:53:40  
7 question is do you recognize this as one of the 12:53:43  
8 documents that you produced in this litigation. 12:53:46

9 A. That appears to be the case, yes. 12:53:49

10 Q. Okay. And so this Ambrose Exhibit 15 would be 12:53:54  
11 from a set of documents that you have kept in the 12:54:02  
12 ordinary course of running your law firm, correct? 12:54:05

13 A. Correct. 12:54:08

14 Q. And you would have been the relevant custodian 12:54:08  
15 at all times for these documents? 12:54:11

16 A. Correct. 12:54:13

17 Q. I'm going to ask you to go to PDF Page 20. 12:54:14

18 MS. CHAN: Sorry, counsel, one more objection. 12:54:30  
19 I'm going to move to strike to the extent anything in 12:54:33  
20 this document reveals any attorney-client 12:54:35  
21 communications or work product. 12:54:36

22 Please continue. 12:54:39

23 Q. (BY MR. KOHLHEPP) Mr. Ambrose, do you 12:54:41  
24 recognize the document at PDF Page 20? 12:54:43

25 A. This is the letter of April 28, 2008? 12:54:46

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1	Q.	Correct.	12:54:50
2	A.	I recognize the letter from my files. I don't	12:54:51
3		have any real independent recollection of its contents.	12:54:56
4	Q.	You would agree that given that this letter	12:55:01
5		appeared in your files, you received it on or around	12:55:04
6		April 28th, 2008, correct?	12:55:08
7	A.	Yes. We received Withdrawal of Representation	12:55:10
8		notices I know in general from Mr. Brooks.	12:55:14
9	Q.	Okay. And this letter at PDF Page 20 would be	12:55:18
10		one of those notices, correct?	12:55:22
11	A.	That appears to be the case, yes.	12:55:23
12	Q.	Okay. And it pertains to a list of patent	12:55:25
13		applications; is that correct?	12:55:29
14	A.	Correct.	12:55:31
15	Q.	And the first one of those is the 342	12:55:32
16		application, correct?	12:55:34
17	A.	I don't see the 3 -- oh, I'm sorry, yes.	12:55:37
18	Q.	And then the third one is the 329 application?	12:55:51
19	A.	Correct.	12:55:55
20	Q.	And then if you go to the second paragraph,	12:55:56
21		the last sentence, you would agree that that sentence	12:56:02
22		is informing you, quote, "that no actions or responses	12:56:08
23		have yet been filed to the outstanding Office Actions	12:56:12
24		identified on enclosed Appendix A," closed quote.	12:56:15
25		Do you see that?	12:56:20

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1	A.	It's addressed to Mr. Haycox but care of me,	12:56:20
2		so yes, I agree with what you just said it reads.	12:56:30
3	Q.	So fair to say that it's informing both you	12:56:35
4		and Vivato Network Holdings of what it states there,	12:56:37
5		correct?	12:56:41
6	A.	Correct.	12:56:42
7	Q.	And then if you go to the Appendix A at PDF	12:56:43
8		Page 22.	12:56:54
9	A.	Yes.	12:56:59
10	Q.	The third paragraph refers to the 329	12:56:59
11		application. Do you see that?	12:57:03
12	A.	I do.	12:57:05
13	Q.	And it notes that there's an outstanding final	12:57:05
14		Office Action with an initial due date or response of	12:57:11
15		May 17th, 2008, and then later it says extensions are	12:57:14
16		available until September 17th, 2008, at which point if	12:57:19
17		no response has been received by the USPTO this	12:57:24
18		application will become abandoned.	12:57:26
19		Do you see that?	12:57:29
20	A.	I do.	12:57:29
21	Q.	So would you agree that this paragraph in	12:57:30
22		Appendix A of this letter is informing you and Vivato	12:57:33
23		Network Holdings that if no response is filed in the	12:57:39
24		329 application by May 17th, 2008, or no later than	12:57:45
25		September 17th, 2008, that application will become	12:57:49

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1	abandoned?	12:57:53
2	MS. CHAN: Objection to form.	12:57:54
3	A. I agree that's what it says.	12:57:55
4	Q. If you go to PDF Page 25 --	12:58:00
5	MS. CHAN: I'm going to continue to lodge a	12:58:12
6	standing objection so I don't have to keep interrupting	12:58:14
7	you. We maintain that any communications directed to	12:58:16
8	Mr. Haycox relating to the prosecution of these patents	12:58:20
9	and patent applications are attorney-client privileged	12:58:26
10	that has not been waived and also work product.	12:58:30
11	You can continue.	12:58:33
12	Q. So at PDF Page 25, the top column on the right	12:58:38
13	side refers again to the 329 application, correct?	12:58:43
14	A. You're on Page 25?	12:58:47
15	Q. Yes.	12:58:52
16	A. Yes.	12:58:58
17	Q. And in that same paragraph at the bottom in	12:59:02
18	bold, it says "5/17/2008 response due."	12:59:09
19	Do you see that?	12:59:14
20	A. I do.	12:59:14
21	Q. So you would agree that again this is	12:59:15
22	notifying you and Vivato Network Holdings that there's	12:59:18
23	an Office Action response due for the 329 application	12:59:23
24	on 5/17/2008, correct?	12:59:26
25	A. Correct.	12:59:31

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1	Q. If you could flip to PDF Page 40.	12:59:32
2	A. Okay.	12:59:52
3	Q. Do you recognize this document?	12:59:52
4	A. I generally do, yes.	12:59:54
5	Q. What is it?	12:59:57
6	A. It is a letter from Brooks Cameron dated May	13:00:00
7	12th, 2008, regarding he withdrawal of representation	13:00:06
8	and change of correspondence.	13:00:10
9	Q. And it's also confirming that various patent	13:00:13
10	prosecution files have been transferred to Vivato	13:00:20
11	Network Holdings in care of yourself, correct?	13:00:23
12	A. Correct.	13:00:26
13	Q. And then if you go to the second page of this	13:00:27
14	May 12th, 2008 letter.	13:00:35
15	A. Yes.	13:00:39
16	Q. There's an Appendix C there. Do you see that?	13:00:39
17	A. I do.	13:00:43
18	Q. And if you go to the fifth paragraph down, it	13:00:43
19	references the 329 application again.	13:00:53
20	Do you see that?	13:00:56
21	A. I do.	13:00:56
22	Q. And it specifies again that there's an initial	13:00:57
23	due date for a response of May 17th, 2008, and that	13:01:03
24	extensions are available until September 17th, 2008,	13:01:08
25	and then it says, quote, "At which point, if no	13:01:13

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## C E R T I F I C A T E

STATE OF OREGON )  
 ) SS.  
COUNTY OF DESCHUTES )

I, GENIE L. KELLEY, Certified Shorthand  
Reporter, do hereby certify:

That on December 19, 2022, at 9:45 a.m.,  
appeared before me CHRISTOPHER AMBROSE, the witness  
whose deposition is contained herein; that prior to  
being examined he was by me duly sworn;

That the deposition was taken down by me in  
machine shorthand and was thereafter reduced to writing  
through computer-aided transcription, that the  
foregoing represents to the best of my ability, a true  
and correct transcript of the proceedings had in the  
foregoing matter.

I further certify that I am not an attorney  
for any of the parties hereto, nor in any way concerned  
with the cause.

DATED this 29th day of December, 2022,  
in Bend, Oregon.



GENIE L. KELLEY, CM, CSR  
Registered Professional Reporter  
Oregon CSR No. 90-0149 Expires 9/30/2023

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